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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,439	01/31/2002	Nobuyuki Ebara	100808-00050 (FUS 19.397)	7156

26304 7590 06/28/2006

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EXAMINER	
FOX, JAMAL A	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,439	EBARA, NOBUYUKI	
	Examiner	Art Unit	
	Jamal A. Fox	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *4,6 and 7* is/are allowed.

6)☒ Claim(s) *1-3 and 5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshihara et al. (U.S. Patent No. 6,643,291).

Referring to claim 1, Yoshihara et al. discloses a frame relay communication device (Fig. 46 ref. sign 112) arranged to communicate with another frame relay communication device (Fig. 46 ref. sign 114) of a party on the other end of communications connected through a frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30), comprising

a sending unit (see Figures 46 and 47 and respective portions of the spec.) which sends at least twice continuously (inherent, because the inquiries continue unless the dial number of the terminating apparatus is stored in the destination database), to the frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30), a inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) for inquiring normality of a data link between the frame relay communication device and said frame relay network, and also between the frame relay communication device and said other frame relay communication device (Fig. 46 and respective portions of the spec.); and

a receiving unit (see Figures 46 and 47 and respective portions of the spec.) which receives a response message (response message, col. 18 lines 1-15, col. 18 lines 24-45, col. 20 lines 5-15, col. 24 lines 45-67, col. 26 lines 55-67, col. 28 lines 20-35 and col. 31 lines 20-25) corresponding to the inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) sent from said frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30) to recognize a state (state, col. 10 lines 10-15) of the data link based on the received response message (response message, col. 18 lines 1-15, col. 18 lines 24-45, col. 20 lines 5-15, col. 24 lines 45-67, col. 26 lines 55-67, col. 28 lines 20-35 and col. 31 lines 20-25), but fails to explicitly teach of the inquiry message being a state inquiry message. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included to the invention of Yoshihara et al. the inquiry message being a state inquiry message in order to monitor the state from the originating side interface apparatus to the terminating side interface apparatus as suggested by Yoshihara et al. (col. 10 lines 10-15).

Referring to claim 2, Yoshihara et al. discloses the frame relay communication device (Fig. 46 and respective portions of the spec.) according to claim 1, wherein said sending unit sends the state inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) to the frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30) a plurality of times (time, col. 18 lines 45-49 and col. 48 lines 35-40) until said receiving unit receives the response message (response message, col. 18 lines 1-15,

col. 18 lines 24-45, col. 20 lines 5-15, col. 24 lines 45-67, col. 26 lines 55-67, col. 28 lines 20-35 and col. 31 lines 20-25).

Referring to claim 3, Yoshihara et al. discloses the frame relay communication device according to claim 1, further comprising a fault detecting unit which detects failure (failure, col. 18 lines 49-53) and recovery of said frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30),

wherein after said frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30) has recovered from the failure, said sending unit sends the state inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) at least twice continuously after the recovery.

Referring to claim 5, Yoshihara et al. discloses a frame relay communication system comprising:

a frame relay communication device (Fig. 46 ref. sign 112 and respective portions of the spec.) arranged to communicate with another frame relay communication device (Fig. 46 ref. sign 114 and respective portions of the spec.) of a party on the other end of the communications connected through a frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30), including,

a sending unit (see Figures 46 and 47 and respective portions of the spec.) which sends, to a frame relay network at least twice continuously (inherent, because the inquiries continue unless the dial number of the terminating apparatus is stored in the destination database), an inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) for inquiring normality of a data link between the frame relay

communication device and said frame relay network, and also between the frame relay communication device and said other frame relay communication device; and

a receiving unit (see Figures 46 and 47 and respective portions of the spec.) which receives a response message (response message, col. 18 lines 1-15, col. 18 lines 24-45, col. 20 lines 5-15, col. 24 lines 45-67, col. 26 lines 55-67, col. 28 lines 20-35 and col. 31 lines 20-25) corresponding to the inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67) send from said frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30) to recognize a state (state, col. 10 lines 10-15) of the data link based on a reception-result; and

a frame relay switchboard (Fig. 47 ref. signs 208 and 210 and respective portions of the spec.) including,

a receiving unit (see Figures 46 and 47 and respective portions of the spec.) disposed in said frame relay network (Fig. 46 ref. sign 108 and col. 45 lines 25-30) for receiving the state inquiry message (inquiry message, col. 18 lines 1-15 and col. 24 lines 58-67); and

a sending unit (see Figures 46 and 47 and respective portions of the spec.) which sends, to said frame relay communication device (Fig. 46 and respective portions of the spec.), the response message (response message, col. 18 lines 1-15, col. 18 lines 24-45, col. 20 lines 5-15, col. 24 lines 45-67, col. 26 lines 55-67, col. 28 lines 20-35 and col. 31 lines 20-25) corresponding to the state (state, col. 10 lines 10-15) of the data link, but fails to explicitly teach of the inquiry message being a state inquiry message. However, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to have included to the invention of Yoshihara et al. the inquiry message being a state inquiry message in order to monitor the state from the originating side interface apparatus to the terminating side interface apparatus as suggested by Yoshihara et al. (col. 10 lines 10-15).

Allowable Subject Matter

3. Claims 4, 6 and 7 are allowed.

Response to Arguments

4. Applicant's arguments with respect to claims 1-3 and 5 have been considered but are moot in view of the new ground(s) of rejection. Applicant argued that Yoshihara et al. has no description of:

- A state inquiry message for inquiring normality of a data link;
- Between the frame relay communication device and said frame relay network; and also
- Between the frame relay communication device and said other frame relay communication device.

However, one skilled in the art would recognize that the message of Yoshihara et al. is a state inquiry message because it is used to monitor the state from the originating side interface apparatus to the terminating side interface apparatus as suggested by Yoshihara et al. (col. 10 lines 10-15). Furthermore, the frame relay communication device is (Fig. 46 and respective portions of the spec.) and the frame relay network is (Fig. 46 ref. sign 108 and col. 45 lines 25-30). The frame relay communication device is also (Fig. 46 ref. sign 112) and the other frame relay communication device is (Fig. 46

ref. sign 114). Applicant also argued that "sending at least twice continuously, to a frame relay network, a state inquiry message..." is not shown in Yoshihara et al. This is inherent, because the inquiries continue unless the dial number of the terminating apparatus is stored in the destination database.

Conclusion

5. **Any response to this action should be mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on 8:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jamal A. Fox

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Seema S. Rao 6/26/06
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